

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
Regular Session
Date: JANUARY 28, 2008
AGENDA

7:30 p.m. – Roll Call

PRELIMINARY MEETINGS:

1. **SEYMOUR BORDEN (Carpet Mill Outlet) (08-02)** Request for:

SIGN 9.4 ft. Height
 20 ft. Width
 1 – Additional wall sign

All at 294 Windsor Highway in a C Zone (35-1-54.12)

2. **ROTTMEIER FAMILY TRUST (08-04) (Newburgh Pork Store)** Request for:

SIGN #1 5 ft. 6 inch Height
SIGN #2 6 ft. Height
SIGN #4 12 ft. 6" length
SIGN #5 15 ft. length and; 1 additional wall sign
SIGN #6 6 ft. 6 inch length and; 1 additional wall sign
SIGN #7 196 sq. ft. and; 3 ft. 3" Height
SIGN #8 1 – "A"-Frame Sign at Road Sign
SIGN #9 1 – Swinging Sign

All at 327 Windsor Highway in a C Zone (45-1-40.1)

3. **PETER & IRENE MOLONEY (08-05) (Referred by P.B.)** Request for:

LOT #1 15,189 s.f. Minimum Lot Area (Gross)
LOT #2 9,397 s.f. Minimum Lot Area (Gross)

At Sho Gee Court in an R-1 Zone (51-1-55.3)

PUBLIC HEARINGS:

4. **EVE FRED A (dba Freda Home Professional Office/RLF Management Inc.) (07-55) As referred by P. B. -** Request for Variance to the provisions for Home Professional Offices which restricts the operation to employ no more than one person. Applicant proposes to employ five employees in the business. Applicant proposes a total of seven off-street parking spaces (Definitions - Section 300-89) in an R-4 Zone (47-1-35)

(NEXT MEETING FEBRUARY 25, 2008)

January 28, 2008

1

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
JANUARY 28, 2008

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
KATHLEEN LOCEY
FRANCIS BEDETTI, JR.

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

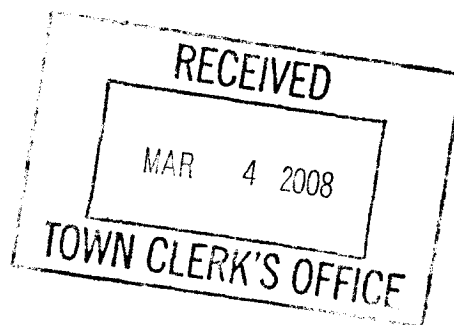
ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: KIMBERLY VOLPE
PAT TORPEY

REGULAR MEETING

MR. KANE: I'd like to call to order the January 28,
2008 meeting of the New Windsor Zoning Board.



PRELIMINARY_MEETINGS:

SEYMOUR_BORDEN_(CARPET_MILL_OUTLET)_(08-02)

MR. KANE: Preliminary meeting, Seymour Borden, Carpet Mill Outlet, request for sign, 9.4 foot height, 20 foot width and one additional wall sign all at 294 Windsor Highway.

Mr. Keith Borden and Mr. Seymour Borden appeared before the board for this proposal.

MR. KANE: I will say this for the preliminary member what we do in New Windsor is we hold two meetings, one prelim and one public. By law in New York State all our decisions have to be made at the public hearing. Some towns hold one meeting and if you're not prepared when you walk in you don't have everything you need they vote on what you have and you lose. We do it a little bit differently here so what this is is a very preliminary idea, we'll tell you what we need and you'll tell us what you want to do. We'll hash it out and set you up for a public hearing. So come forward, speak loudly enough for the young lady over here to hear you.

MR. S. BORDEN: We don't want to do anything that's not already done.

MR. K. BORDEN: When we put our addition on the building we had the permit. At the last minute our awning man said would you like to have your sign Carpet Mill Outlet in one of the panels. Not thinking we had it done. And we also added in large letters 294 cause the fire department at that time wanted the building labeled. We thought it would be a good idea, kill two birds with one stone, not realizing when we went to do a refinancing we had no idea. So we're appealing to the Town of New Windsor if they would let us uncover our sign.

MR. KANE: Basically what happened the awning you had your name put on it not thinking that would be considered quote unquote a sign, that's why you're here, okay. Is the, is it illuminated in any way?

MR. S. BORDEN: Backlighting meaning the wall has some backlighting.

MR. KANE: Nothing flashing?

MR. K. BORDEN: No.

MR. KANE: No hindrance to the vehicles driving up 32 one way or the other?

MR. K. BORDEN: Not at all.

MR. S. BORDEN: It's set back.

MR. KANE: How long has it been up?

MR. K. BORDEN: Five years.

MR. BABCOCK: Mr. Chairman, can I just add that when we did the denial like I normally see we do the entire thing, the sign, the C in Carpet is actually 34 and 11/16 inches high but the entire sign that we have down as 11.9 feet high, the C is three foot.

MR. KANE: Right, the lettering, do you guys, you can see what he's talking about?

MR. BEDETTI: Yes.

MR. KANE: So what the building department usually does with a sign is they'll square it out all the way even though if it's cut out or whatever they don't do every intricate measurement just square it and give us those dimensions.

MR. BEDETTI: How many signs do you actually have there now?

MR. S. BORDEN: On the front of the building on the awning you have, I've got one sign on the painted side of the building, I've got underneath the awning I've got some, don't get stuck, with a picture of a bumble bee.

MR. BEDETTI: You have a freestanding sign?

MR. S. BORDEN: Yes.

MR. BEDETTI: So this represents the third sign, is that correct?

MR. K. BORDEN: It would be like two on the building, the one in question and the one that we have and the freestanding sign.

MR. BEDETTI: Now, do you have variances on any of the other ones, is that a wall sign?

MR. S. BORDEN: Everything else has been approved.

MR. BABCOCK: Yes.

MR. BEDETTI: That's the only question.

MS. LOCEY: This is the second sign?

MR. BABCOCK: Well, it's one of two wall signs, that's what we're doing, the freestanding sign is the third sign which we won't talk about tonight that's already been done so what the extra sign is the code says he's allowed one wall sign so he needs an additional variance to have an additional to make it two and then also the size of the sign.

MR. KANE: And the size of it right so just the awning itself by putting your name became a sign.

MR. BABCOCK: We're giving you the size of entire awning as if it's a background.

MR. KANE: I understand. When you come back for the public hearing, just bring if you can pictures of the awning from the road.

MR. K. BORDEN: Sure.

MR. KANE: Have there been any complaints formally or informally about it?

MR. S. BORDEN: No.

MR. BABCOCK: Mr. Chairman, we made him cover the sign because he's not allowed to have it.

MR. KANE: Give us a picture of the awning.

MR. K. BORDEN: Okay, it's right over the front door.

MR. KANE: Any further questions?

MR. BEDETTI: No.

MS. LOCEY: No.

MR. KANE: I will accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Mr. Borden on the request 8-02 for a variance as requested.

MS. LOCEY: I'll second that motion.

ROLL CALL

January 28, 2008

6

MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. KANE	AYE

ROTTMEIER_FAMILY_TRUST_(08-04)

MR. KANE: Rottmeier Family Trust. They're requesting eight signs.

Mr. James Mc Guinness appeared before the board for this proposal.

MR. MC GUINNESS: Good evening, my name is Jim McGuinness and I'm here representing the Rottmeier family. First of all, I'd like to thank Myra for all the assistance and help that she provided me in clarifying the forms and assisting with the application process. Now, the property is at 327 Windsor Highway, I'm sure you're all familiar with it, accommodates the Newburgh Pork Store, the Village Paint Store and also the Viking Athletic Gear tee-shirt type shop. So there are three tenants in this building. With maybe two or three exceptions all of the signs I understand and have been informed were installed as part of the original construction of the building back in the mid '60s so they have existed for about 40 years. The lack of permits was identified as part of a closing process when the Rottmeier family sold the property to Frank Fadanza and that necessitated initiating the process and trying to make things right. So that's kind of where we stand.

MR. KANE: So all the variances aren't for one of the locations they're for all three stores, Mike?

MR. BABCOCK: Yes, it's for every sign that's on that piece of property.

MR. KANE: They have all been existing that I know. Any illumination, which signs are illuminated, just the ones in the front?

MR. MC GUINNESS: The hanging sign is illuminated which accommodates all three tenants, the Pork Store, the

Village Paint and the Viking.

MR. KANE: This particular sign right there?

MR. MC GUINNESS: That's illuminated.

MR. KANE: The ones over the entryways are not illuminated?

MR. MC GUINNESS: I don't think so.

MR. KANE: For the public hearing we'd want to know for the record. And no flashing illumination in the signs?

MR. MC GUINNESS: No.

MR. KANE: The swinging sign, sign number 9 that's the Viking sign over their doorway?

MR. MC GUINNESS: Their entrance is on the side of the building and it's actually down kind of in a basement or a lower level and so it identifies where you enter.

MR. KANE: And my pet peeve, which one's the A frame sign?

MR. MC GUINNESS: That can be illuminated, excuse me, eliminated.

MR. KANE: I'd prefer that get eliminated.

MR. MC GUINNESS: Me too.

MR. KANE: For the public hearing you'll look at eliminating sign number 8?

MR. MC GUINNESS: Yes.

MR. BEDETTI: So eight is no longer?

MR. KANE: Eight we're going to take out.

MR. MC GUINNESS: Just take it out.

MS. LOCEY: Number 3 fits what?

MR. KANE: It doesn't need consideration by the board.

MS. LOCEY: Because that is one sign they're allowed?

MR. KANE: Right.

MS. LOCEY: What's sign number 3?

MS. MASON: I think it's this.

MR. KANE: Those would be the store front signs and for the record they both are illuminated internally, we have that right here.

MS. LOCEY: These signs?

MR. KANE: Those two, right, those are the ones that are legal, there are two out front, they're allowed to have that. The one for the Viking store while they're allowed to have a sign they're not allowed to have a swinging sign, is that correct, Mike?

MR. BABCOCK: That's correct.

MR. KANE: So the two over the entryway are the ones that are not here for consideration.

MR. MC GUINNESS: The swinging sign could be secured so it doesn't swing if that would resolve an issue.

MR. BABCOCK: I don't know that it is really a swinging sign, it's hung by chain so I'm not sure, I'm concerned about that but that's what we put down it's here because of the, it's just here because of the swinging.

MR. BEDETTI: It is a swinging sign and secured on the corner by a I'll call it a safety chain for some other lack of some other description which is on the bottom corner, the top is suspended and it's technically a swinging sign.

MR. KANE: For the public hearing if you can look at seeing if there's a safer way of attaching that particular sign.

MR. BEDETTI: Technically that's not a facade sign the way it's mounted.

MR. KANE: Right, but the way that business is that's something that they need in that but if we can get that more secure then that would be a better way to go.

MR. MC GUINNESS: Good.

MR. KANE: And again you guys number 8 is out of the picture, remove the A frame. Any further questions? I'll accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing on the application of the Rottmeier Family Trust doing business as the Newburgh Pork Store as detailed on the agenda of the Zoning Board of Appeals meeting dated January 28, 2008.

MR. BEDETTI: I'll second the motion.

ROLL CALL

MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. KANE	AYE

PETER_&_IRENE_MOLONEY_(08-05)

MR. KANE: Request for lot #1 15,189 square foot minimum lot area, lot #2, 9,397 square foot minimum lot area at Sho Gee Court.

Kevin Brennan, Esq. appeared before the board for this proposal.

MR. BRENNAN: Good evening, my name is Kevin Brennan, I'm here on behalf of Mr. and Mrs. Moloney, my clients. Mr. and Mrs. Moloney have owned this property for about seven years and they seek to create this second lot. Both lots would then be below the minimum standard and that's why we're here for a gross lot area variance request. They propose to erect a four bedroom dwelling on what would become lot 2 if the request was to be granted. And the soil testing results that were conducted show that the lot could sustain a subsurface sewage disposal system so the lot would be self-sustaining as far as water and sewer is concerned.

MR. KANE: It would be a well?

MR. BRENNAN: Yes, I believe the existing home is on what's described as lot 1 on the map and serviced by a well and septic. There's a private road maintenance agreement which would need to be amended but I believe it's been determined that the addition or the creation of an additional lot would not create too many lots for the private road, there are two lots currently.

MR. KANE: How many other homes are on the cul-de-sac?

MR. BRENNAN: I believe there's only one at present.

MR. KANE: And the only variances you would need in the building of the home would be the minimum lot area?

MR. BRENNAN: Yes, sir, the lot area variance is all

we're going to have to seek.

MS. LOCEY: Is there an existing house?

MR. BRENNAN: Yes, there is, on what's described as lot 1 on the map that two story dwelling with paved driveway.

MR. KANE: What size house are they proposing to build on this lot?

MR. BRENNAN: I don't have very specific information about that other than what's shown on the map so I haven't seen any plans for the home, I'm not even sure they've gotten that far in their plan.

MR. KANE: I think that might be something we might want to see for consideration on this.

MR. BRENNAN: Certainly.

MS. LOCEY: Is there an existing stone wall where the proposed property line is?

MR. BRENNAN: Yes, there is and that kind of gave them the idea to use that stone wall as the kind of a natural boundary line between the lots, what would become a second lot.

MR. BEDETTI: These lots are subdivided or are you in the process of subdividing them?

MR. KANE: That's what they're here for. There's only one lot now, yes?

MR. BRENNAN: The map shows lots one and two but there's only one lot presently.

MR. BABCOCK: Mr. Chairman, as you know, this was part of the zone change, this area used to be 43,560 which

would be one acre and part of the zone change raised the requirements from that to 80,000 square feet. I'm not sure when, this subdivision is fairly new, I don't know when.

MR. KANE: And both proposed lots are going to be 64 and 70,000 square feet?

MR. BABCOCK: Yes, it looks like the lots would comply with the neighboring lots quite well, it's actually a large lot compared to all the other lots around it.

MR. BRENNAN: That's my understanding.

MR. BEDETTI: So all the setbacks based on this, looks like all the setbacks would be met?

MR. BABCOCK: Yeah, the only thing that they don't meet is the lot area, the size of the lot.

MR. KANE: Any further questions at this point from the board? Just again for the public hearing I'd be interested in the size of the home that we're looking to place on there.

MR. BRENNAN: Yes, sir.

MS. LOCEY: It does say four bedroom.

MR. BRENNAN: Yes, it will be a substantial home.

MR. KRIEGER: But what it doesn't say with the information which you need is the, what the outside dimensions are.

MR. BABCOCK: That's finished floor elevation, Andy, it doesn't have a square footage on the house. We don't ask for square footage of the house, the bedroom counts are what we need for the calculations in our septic systems, that's the only reason we ask that and if

they're going to sell the lot they may or may not because the buildable area is there, they could build a 5,000 square foot house or they could build a 2,000 square foot house.

MR. KANE: And it's not going to hurt the developmental coverage?

MR. BABCOCK: No, they would be within zoning doing that.

MR. BRENNAN: Still I'm sure we can come up with and will come up with approximate plans absolutely for the public hearing.

MR. KANE: Okay, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for the Moloney proposal 8-05 for request for a variance.

MS. LOCEY: I'll second the motion.

ROLL CALL

MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. KANE	AYE

PUBLIC_HEARINGS:

EVE_FREDA_(07-55)

MR. KANE: Request for variance to the provisions for Home Professional Offices which restricts the operation to employ no more than one person. Applicant proposes to employ five employees in the business. Applicant proposes a total of seven off-street parking spaces.

Mr. Joseph Minuta appeared before the board for this proposal.

MR. MINUTA: Good evening.

MR. KANE: Evening. Let me just start off by saying you have been here before so I think you know what I'm going to say is that we only have three members on the board here tonight. So as I always do, I will give you the option to hold off on a vote until the next meeting when we have more members cause as you know it will take all three votes to be favorable for this project to pass so we'll be giving you that option later on.

MR. MINUTA: Thank you very much. Joseph Minuta with Minuta Architecture here representing Eve Freda, RLF Management. We were here before you on October 22 of last year for the preliminary meeting and the existing use has been, the existing house has been utilized for 20 years in this capacity. Prior zoning allowed for different numbers of people, the furthest back which is where this would relate would be 1975 allowing two persons, no more than two persons to be employed by the business. It also has a provision for minimum seven parking spaces. With this particular use they have five employees and seven parking spaces. So what we're requesting this evening is to continue this existing business as it exists through a variance by this board. We have been referred by the planning board and if I recall the chairman's quote was there's not much heavy

lifting here. With that, I will open this back to the board and possibly the public.

MS. LOCEY: Is this one residence in addition to an office profession?

MR. MINUTA: Yes.

MS. LOCEY: What kind of professional office services?

MR. MINUTA: They do medical billing so essentially just invoicing, billing, that sort for medical professions.

MS. LOCEY: So there's not a lot of traffic coming and going?

MR. MINUTA: No, the only traffic that they have are basically the employees and the residents who live there.

MR. KANE: All five employees there at the same time?

MR. MINUTA: Yes.

MS. LOCEY: What hours of operation is that?

MR. MINUTA: I'd have to defer, 9 to 5?

MS. FREDA: It's 8 to 4, Monday and Friday, 8 to 4, Tuesday, Wednesday, Thursday to 2 Monday and Friday.

MR. MINUTA: That's Mrs. Eve Freda for the record.

MR. KANE: And again it's been in operation approximately 20 years?

MR. MINUTA: Yes.

MR. KANE: Most pertinent question I will come up with

right now, have there been to your knowledge any complaints formally or informally about the home business?

MR. MINUTA: There was one complaint that was filed and that was through a person who's in relation to the applicant under a parental sort of circumstances and other than that there have been no other formal grievances against this business since to our knowledge.

MR. KANE: Was the person a resident of the area or--

MR. MINUTA: They live away from this general vicinity. Were they ever employed?

MS. FREDA: His wife was an employee years ago.

MR. KANE: Thank you. I think at this point what we'll do is we'll open it up to the public for any public statements.

MR. BEDETTI: I have one question.

MR. KANE: We're coming back to the board definitely so what we're going to do is open it up to the public, any questions they want to ask or any statements they want to make, this is the time to do it. Ma'am?

MS. DUPONA: Mary Dupona, 1 Garden Drive, New Windsor. I want just want to say I've been a neighbor for 50 years and she's an honor to the neighborhood and her property is beautiful. She's very well easy to get along with and it's a credit to have her in our area.

MR. KANE: So we're going to assume that's a positive reaction for this?

MS. DUPONA: Yes.

MR. KANE: Thank you very much.

MR. KRIEGER: This operation hasn't caused you any difficulty?

MS. DUPONA: Absolutely not, it's a pleasure to have them on the property.

MR. BYRNE: Kevin Byrne, 4 Lewis Drive, New Windsor, 12553, I live three houses from them. I have been there eight years now, never had a problem with them whether it's the employees or anything.

MR. KANE: No wild parties?

MR. BYRNE: No, that's the other house though. But they, I mean, their employees, the cars, it's never a concern, I mean, as far as like the traffic and I actually live on the corner house so they have to pass my house going and it's never a problem.

MR. KANE: So in eight years no complaints whatsoever?

MR. BYRNE: No, sir.

MR. KANE: We'll take that as a positive.

MR. BYRNE: Thank you.

MR. KANE: Thank you very much. Anybody else for this particular hearing? That being said, we'll close the public portion of the hearing and ask Myra how many mailings we had?

MS. MASON: On January 11, I mailed out 41 addressed envelopes and had no response.

MR. KANE: Frank, you got a question?

MR. BEDETTI: Yes, is this a licensed business, is that

a licensed business?

MS. FREDAL: No, it's not required.

MR. BEDETTI: Does this actually qualify for a home office? Is there a qualification that identifies number of state authorized businesses for a home for home business, does this business actually qualify for home business?

MR. BABCOCK: Yeah, that's not the definition of a home, you're reading the definition of a home office.

MR. BEDETTI: Right.

MR. BABCOCK: I think that says included but not limited to, something similar to that, doesn't mean you have to have a license. But anybody that does have a license what we want is a copy of that license and we want to make sure that they're adhering to the guidelines of wherever the requirements are of their license. If you have a veterinarian, could be something like that.

MS. LOCEY: Beautician.

MR. BABCOCK: Yes.

MR. BEDETTI: Again, they're all licensed.

MR. BABCOCK: Yes.

MR. KANE: You can have a home business that does not require a license.

MR. BEDETTI: It becomes a commercial business in a residential area, that's what it becomes.

MR. BABCOCK: No, it's a home professional office that's how it's being--

MS. LOCEY: So like similar to an accountant who works out of his home.

MR. BABCOCK: Well, that's correct, if it's an accountant that's working out of his own home by himself he would be considered a home occupation. So that's a little less requirement, that's a requirement to get a building permit, make sure you're not using a certain square footage of your house and this one requires the planning board and it also requires a public hearing by the planning board for the special permit, it's the difference. The reason is that she wouldn't be a home occupation is because she doesn't meet the criteria of that as far as employees, that's number one.

MR. KANE: Okay, any further questions?

MR. BEDETTI: No, I guess that's really where I was going with that relative to the number of people that you can employ in a residential area depending on where you want to go with that it opens it up to anything and everybody.

MR. BABCOCK: Well, I think that they're asking for this variance based on the information they're supplying they would be restricted to the number of people that they have now, if they have ten quite honestly if there's not a problem we probably wouldn't know if somebody was, who complained and they had more employees than what they're allowed by what they have demonstrated then we'd violate them on that.

MR. KRIEGER: Frank, so you know legally speaking every variance that the zoning board grants is based on its own facts, there's no precedence, somebody couldn't come in here and say well, I'm running a completely different type of business but they have five employees, I want to have five employees, doesn't work

that way. That's why all the inquiry is going on now related to the nature of the business and nature of the crowds and so forth. And I think that's also why the statute's written the way it's written including but not limited to because it's impossible for draftsman of any statute to anticipate all the possibilities, especially in the economy that we live in the inventiveness of people of ways to make money is limitless and you'd be a fool to try and anticipate all of them.

MR. KANE: Okay.

MR. BEDETTI: Yes.

MR. KANE: Any signs involved with the home?

MR. MINUTA: No.

MR. KANE: No future plans of any type of signage?

MR. MINUTA: No.

MR. KANE: Footprint of the home going to stay the same?

MR. MINUTA: Exactly.

MR. BABCOCK: Mr. Chairman, I think they're allowed an identification sign by zoning.

MR. KANE: Under the mailbox type thing.

MR. BABCOCK: I don't know the sign, six inches high by 18 inches long, so if they were to want something like that just for an identification they could have that.

MR. MINUTA: Thank you.

MR. KANE: Any further questions from the board? I

will give you the option, Joseph.

MR. MINUTA: Let me consult with my client, thank you.

(Discussion was held off the record)

MR. MINUTA: We have decided to hold this over for a fuller board. When would the next proceeding be?

MR. KANE: February 25th.

MR. MINUTA: Would we close the public hearing at this point?

MR. KANE: Everything's closed at this point except for the vote.

MR. MINUTA: So we could come back and present that at that time?

MR. KANE: That's correct.

MR. MINUTA: We'd like to do so.

MR. KRIEGER: The additional members would read the minutes, review and then have an opportunity to ask you whatever questions they wanted to ask you.

MR. MINUTA: Excellent.

MR. KRIEGER: But you shouldn't assume that, you necessarily don't have to make it a full presentation again, that's why they have, that's what she's here for.

MR. MINUTA: Thank you for the explanation.

MR. KANE: Have a good evening.

MR. KANE: We'll need a motion to table the vote on the Eve Freda application until February 25, 2008.

MR. BEDETTI: I'll make that motion that we table the decision until the next scheduled meeting.

MS. LOCEY: I'll second that motion.

ROLL CALL

MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. KANE: Motion to adjourn.

MR. BEDETTI: So moved.

MS. LOCEY: Second it.

ROLL CALL

MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer (2/15/08)